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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	§	Group Art Unit: 2143
	§	
Nobuyoshu Morimoto	§	Examiner: England, David E.
	§	
	§	Atty. Dkt. No.: 5596-00200
	§	
Serial No. 09/588,879	§	
	§	
Filed: June 6, 2000	§	
	§	
For: AN IMPROVED SYSTEM AND METHOD FOR IDENTIFYING INDIVIDUAL USERS ACESSING A WEB SITE	§	
	§	
	§	

CERTIFICATE OF MAILING
37 C.F.R. § 1.8

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Robert C. Kowert
Name of Registered Representative

March 28, 2005
Date

Signature

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Further to the Notice of Appeal filed January 28, 2005, Appellant presents this Appeal Brief. Appellant respectfully requests that the Board of Patent Appeals and Interferences consider this appeal.

I. REAL PARTY IN INTEREST

As evidenced by the assignment recorded at Reel/Frame 012868/0637, the subject application is owned by NIHON DOT.COM CO., LTD. (d.b.a. ColonDot.com).

II. RELATED APPEALS AND INTERFERENCES

No other appeals, interferences or judicial proceedings are known which would be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-37 stand finally rejected. The rejection of claims 1-37 is being appealed. A copy of claims 1-37 is included in the Claims Appendix herein below.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been submitted subsequent to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

An important consideration for owners and/or operators of web sites, which have been designed to handle Internet commerce, is the amount of web traffic flowing through the site. There are various metrics used to measure web traffic. Various web traffic analysis and tracking software is available to provide the owners and/or operators of web sites with detailed statistics. One commonly used metric, for example, is the number of web page accesses or web hits on a page of a web site. Many Internet sites display a counter to show the number of visitors since last counter reset. The number of web hits per page, measured over a given time period, may have a significant impact on the advertising revenues generated by the web site.

Although it has been possible to get statistics such as the number of raw hits per web site, the data collected is often incorrect, inadequate and often misleading. Up to now, it has been difficult to accurately identify and count the number of clients accessing a web site. For example, raw hit data shows the number of times each file has been requested at a web site. It can give an idea of the number of clients visiting a web site. However, it may not be able to disclose further detail. Assuming 1,000 hits were recorded on a web site, the raw hit data may not be able to report whether the hits were generated by 10 visitors racking up 100 hits a piece, or by 200 visitors creating five hits each, or by one visitor creating 1000 hits.

Independent claims 1, 9 and 15 are directed to a method, system and medium comprising program instructions, respectively, for identifying individual users accessing a web site. Exemplary systems are illustrated in, e.g., FIGs. 1 and 3, and described on pages 6-7 and 9-12. The system and the method allow a web site server to identify distinct users by using a unique identifier associated with each client computer system requesting access to the web site. The unique identifier may comprise an Internet address, such as the Internet Protocol (IP) address, and a time value associated with each client computer system or browser application requesting access to the web site. One or more records may be stored in a database. Each record comprises a unique identifier corresponding to each computer user accessing the web site. A new client computer system may request access to the web site. In response, the web site server may request the new client computer system to provide information comprising the Internet address and the time value. The new client computer system may send the requested information to the web site server. A web site server hosting the requested web site may determine the uniqueness of the client computer system by comparing unique identifier records of users accessing the web site with those stored in the database. A user may be identified as distinct if no matching record exists in the database. *See, e.g.*, FIGs. 3-5 and page 12, line 17 through page 16, line 24.

Independent claim 12 is directed to a system for identifying individual users accessing a web site, similar to claim 1. In particular the system of claim 12 includes a

client computer configured to execute a program to synchronize time. For example, when the client computer user launches a web browser to gain access to a web site, an application program or plug-in may be concurrently launched to synchronize the computer's or browser's real time clock with the global time standard. *See, e.g.*, page 13, line 20 – page 14, line 9.

Independent claims 16 and 19 are directed to a system and medium comprising program instructions for identifying individual users accessing a web site, similar to claims 1 and 15. In particular the system of claims 16 and 19 includes a web site server configured to store one or more identifiers corresponding to computer users accessing the web site. The identifiers may include such values as an Internet address and a time value. *See, e.g.*, page 5, lines 6 through 9.

Independent claims 20, 26 and 29 are directed to a method, system and medium comprising program instructions for identifying individual users accessing a web site, similar to claims 1, 9 and 15. In particular the system and method of claims 20, 26 and 29 include a request to access a web site including data identifying the requesting computer user including an Internet address and a time value. *See, e.g.*, page 4, line 28 through page 5, line 4.

Independent claims 30, 34 and 37 are directed to a method, system and medium comprising program instructions for counting hits on a web site, similar to claims 1, 9 and 15. In particular the system and method of claims 30, 34 and 37 include comparing time value information received during an access with information stored from previous accesses to determine uniqueness of the user instigating the web site hit. *See, e.g.*, page 12, lines 6 through 15.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-3, 5, 6, 8, 9, 11, 12, 14-16, 18-22, 24-26, 28-31, 33, 34, 36 and 37 stand finally rejected under 35 U.S.C.§ 103(a) as being unpatentable over Shelton et

al. (U.S. Patent 6,418,471) (hereinafter "Shelton") in view of Eichstaedt et al. (U.S. Patent 6,662,230) (hereinafter "Eichstaedt").

2. Claims 4, 7, 10, 13, 17, 23, 27, 32 and 35 stand finally rejected under 35 U.S.C.§ 103(a) as being unpatentable over Shelton et al. (U.S. Patent 6,418,471) (hereinafter "Shelton") in view of Eichstaedt et al. (U.S. Patent 6,662,230) (hereinafter "Eichstaedt") in further view of Bodnar et al. (U.S. Patent 6,295,541) (hereinafter Bodnar).

VII. ARGUMENT

First Ground of Rejection:

Claims 1-3, 5, 6, 8, 9, 11, 12, 14-16, 18-22, 24-26, 28-31, 33, 34, 36 and 37 stand finally rejected under 35 U.S.C.§ 103(a) as being unpatentable over Shelton et al. (U.S. Patent 6,418,471) (hereinafter "Shelton") in view of Eichstaedt et al. (U.S. Patent 6,662,230) (hereinafter "Eichstaedt"). Appellant traverses this rejection for at least the following reasons. Different groups of claims are addressed under their respective subheadings.

Claims 1, 2, 5, 6 and 8:

Shelton in view of Eichstaedt does not teach or suggest sending a request for information to the first computer (from which a first request to access the web site is received), wherein the information comprises a first Internet address and a first time value corresponding to the first computer, as recited in claim 1. The Examiner refers to col. 6, lines 7-23 of Shelton in regard to these limitations of claim 1. This portion of Shelton describes the operation of the WTS server 144, which is part of Shelton's WTS (Web Tracking and Synching) mechanism. The WTS server in Shelton records browser activities from web browsers 114 on terminals 104. However, the WTS mechanism of Shelton *does not request* any information from terminals 104, let alone an Internet address and/or a time value. Neither the passage at col. 6, lines 7-23, nor any other

portion of Shelton describes the WTS mechanism requesting information from any of the terminals. Note that the information stored in session table 145 (Fig. 6) is not requested from the terminals 104. Shelton only describes the WTS mechanism as tracking browser activity that it receives from the terminals. Shelton does not teach that the WTS mechanism ever requests any information from the terminals or browsers.

The Examiner argues that Eichstaedt teaches sending a request for a first time value and cites column 7, lines 23-63 where Eichstaedt describes his method for checking client request frequencies. However, the Examiner's interpretation of Eichstaedt is clearly incorrect. Eichstaedt teaches a method implemented in a server which automatically recognizes when a client computer is making requests too frequently or is accessing too much of the server computer's resources (col. 3, lines 46 – 49). Specifically, Eichstaedt obtains an IP address or other client identifier and determines if the client is on a deny list, in which case the client is refused (col. 7, lines 23 – 31). Eichstaedt further teaches that the server performs frequency checks, wherein the number of requests the client identifier has made within a predefined *time period* t1, as determined from a log file, is compared with a predefined maximum number x1. Furthermore, Eichstaedt teaches that a system administrator chooses values for t1 and x1. If the client identifier has more than x1 requests, the client is added to the deny list. If the client identifier passes a last frequency check, the requested data object is sent (col. 7, lines 32 – 63). Thus, the time value t cited by the Examiner is not requested from a first computer (from which a first request to access the web site is received), as recited in claim 1, but instead is set by a system administrator.

In response to the above argument, the Examiner, in the Response to Arguments section, again cites column 7, lines 23-31 of Eichstaedt that teaches "in step 47, the GET message and IP address or other client identifier are obtained." The Examiner apparently interprets this to include requesting a time value. However, it is clear that Eichstaedt is referring to obtaining an IP address or some other value that identifies the client. A time value does not identify a client and thus Eichstaedt's "other client identifier" cannot correctly be interpreted to include requesting time values. There is clearly no teaching

in Eichstaedt of sending a request for information to the first computer, wherein the information comprises a first Internet address and a first time value corresponding to the first computer.

In the Response to Arguments section, the Examiner also notes that when reviewing a prior art reference any reasonable inferences that are logically drawn from the teaching of the reference may also be evaluated in formulated a rejection. However, it is not reasonable to infer requesting a time value from a first computer system when Eichstaedt **explicitly teaches** determining time values, not from the computer that accessed the web site, but *from a log file*. **Furthermore, it would not make sense for Eichstaedt to request his time values from a computer system accessing the server because the entire purpose in Eichstaedt is for the server to determine if a client computer accesses the server too frequently during a time period determined *by the server*.** Allowing the client computers to supply this time period would mean that clients could completely circumvent the entire purpose of Eichstaedt's teaching. Thus, Eichstaedt actually teaches away from the Examiner's alleged inference. Clearly the time value cannot be requested by the server from the client computers for Eichstaedt's method to function properly. Thus, the Examiner's remarks regarding reasonable inferences do not apply to the Examiner's rejection of claim 1. The Examiner's interpretation of Eichstaedt is clearly based on hindsight knowledge of Appellant's disclosure.

In further regard to claim 1, Shelton in view of Eichstaedt does not teach or suggest determining whether a matching record for the first Internet address and the first time value exists in the database, and identifying the first computer as a distinct user if the matching record does not exist in the database, as recited in claim 1. The Examiner refers to col. 7, lines 23 – 63, of Eichstaedt in regard to these limitations of claim 1. As discussed above, Eichstaedt teaches a method implemented in a server which automatically recognizes when a client computer is making requests too frequently or is accessing too much of the server computer's resources. (col. 3, lines 46 – 49). Thus, Eichstaedt teaches comparing *a number of requests made within a time period* to a

predefined maximum number and **does not teach** determining if a time value contained in a matching record exists in a database, as recited in claim 1. Furthermore, Eichstaedt teaches performing a series of frequency checks if a client identifier is not found in a deny list, but **does not teach** identifying the first computer as a distinct user if the matching record does not exist in the database.

In response to Appellant's arguments, the Examiner, in the Response to Argument's section, cites Figure 3 and a related passage where Eichstaedt discusses Figure 3. The Examiner incorrectly contends that Eichstaedt teaches comparing a time period along with the number of requests with values stored in a database. However, contrary to the Examiner's assertion, Eichstaedt very clearly teaches:

> In step 56, the number of requests the client identifier [e.g. IP address] has made within a predetermined time period t_1 is determined from the log file. Time period t_1 may be any time period, from milliseconds to days, weeks, or even years. This *number of requests is compared with a predefined maximum number* x_1. Values for t_1 and x_1 are chosen by the system administrator.... (emphasis added).

Eichstaedt does not mention, either in the cited passage or elsewhere, comparing a time period along with the number of requests with values stored in a database as argued by the Examiner. Instead, as shown above, Eichstaedt teaches comparing the number of requests made during a time period with a predefined maximum number of requests. Furthermore, Eichstaedt's teachings have absolutely nothing to do with determining whether a matching record for the first Internet address and the first time value exists in the database, and identifying the first computer as a distinct user if the matching record does not exist in the database, as recited in Appellant's claim 1. To the contrary, Eichstaedt's teachings pertain to recognizing when a client computer is making requests too frequently or is accessing too much of the server computer's resources.

Moreover, the Examiner has not provided a proper motivation to modify Shelton according to Eichstaedt. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so in the prior art. *In re Fine*, 837 F.2d

1071 (Fed. Cir. 1988). The question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 488 (Fed. Cir. 1984). The reason given by the Examiner to combine the references is that "it would be more efficient for a system to update and log users interactions with a web sites which could aid in the determination in trends or stop invalid users (robots) from accessing site that would require human interaction for payment of services." Applying the method for automatically limiting access of a client computer to data objects taught by Eichstaedt to the web site in Shelton would only serve to filter out browser interactions from robots and prevent the determination of trends. Filtering out browser interactions would defeat the intended purpose of Shelton to record all browser activity to the web site. If a proposed modification would render the prior art feature unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). Therefore, the combination of Shelton and Eichstaedt is clearly improper.

In the Response to Arguments section, the Examiner argues, "Shelton does not teach recording all browser activity." The Examiner has misunderstood Appellant's argument. Eichstaedt teaches a method to limit a computer's access to a web site based on that computer's access frequency and/or total amount of data downloaded, whereas Shelton teaches a method for recording and reproducing browser activity. Shelton states as one of the objectives of his invention: "to record *the detailed browsing activities* of an individual browser" (column 2, lines 33-37). Shelton also states, as another object of his invention, "the ability to store *each* URL request and *each* piece of data entered into an HTML form ..." (column 2, lines 38-42). Thus, modifying Shelton to automatically deny access to the web site based on access frequency or total data accessed would render Shelton's invention unsatisfactory for its intended purpose, e.g. to record detailed browsing activities and to store each URL request and each piece of data entered.

The Examiner further argues that Shelton teaches a system for repeating browsing activities performed by a customer or user. The Examiner asserts that since it is known

in the art that a robot is not a legitimate user or customer, combining Shelton and Eichstaedt to filter out robot-based activity would make Shelton's system more accurate. However, Appellant disagrees with the Examiner. First of all, it is not well known that all robot-based Internet activity is illegitimate. As is well known in the art, robots are frequently used to automate legitimate user activity. Contrary to the Examiner's assertion, filtering out such robots would not make Shelton's system more accurate.

Additionally, contrary to the Examiner's assertion, Eichstaedt does not teach a system that filters all robot-based internet activity, but instead Eichstaedt teaches a system that refuses requests from client computers that exceed a maximum number of requests during a certain time period. Thus, modifying Shelton in view of Eichstaedt would result in a system that begins recording browser activity for a client computer, and that would then begin to filter the requests from that computer if they exceed a predetermined frequency rate. Thus, rather than making Shelton's system more accurate, the combination of Shelton and Eichstaedt would result in a system that records partial activity for a computer and subsequently stops servicing requests from that computer. Such a combination is not suggested by the prior art.

Furthermore, Appellant notes that Shelton's teachings pertain to recording and reproducing *client-side browser activity* whereas Eichstaedt's teachings pertain to monitoring access frequency and/or total amount of data downloaded *at a server*. Even if combined, the systems of Shelton and Eichstaedt would still operate independently of one another, not as suggested by the Examiner. Moreover, neither reference has anything to do with determining a distinct user according to whether an Internet address and time value match a record in a database, as recited in claim 1.

Claim 3, 22 and 31:

Regarding claim 3, Shelton in view of Eichstaedt does not teach or suggest wherein the time value is associated with a user-defined event and wherein the user-defined event is a launch of a web browser software on said first computer system. The

Examiner cites column 10, lines 16-42 and column 10, line 61-column 11, line 7 where Shelton describes the contents of session table 145. However, the cited passages do not mention a time value associated with a user-defined event, wherein the user-defined event is a launch of a web browser. Shelton teaches that a session list in session table 145 may contain a StartTime and a StopTime respectively indicating the starting and stopping of a session. However, the StartTime for one of Shelton's sessions does not correspond to the launching of a web browser. Instead, Shelton teaches, "[a] session is created when a browser first hits web site 134" (Shelton, column 9, line 67 – column 10, line 1). The Examiner has not relied upon Eichstaedt for the rejection of claim 3 and Eichstaedt fails to overcome any deficiency of Shelton regarding a time value associated with a user-defined event, wherein the user-defined event is a launch of a web browser.

Claims 9 and 11:

In regard to claim 9, Shelton in view of Eichstaedt does not teach or suggest sending a request for information to the first computer user, wherein the information comprises a first Internet address and a first time value corresponding to the first computer user, as recited in claim 9. The Examiner rejects claim 9 for the same reasons as claim 1, discussed above. For a more detailed discussion regarding the limitations of Shelton in view of Eichstaedt regarding claim 9, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 9 as well.

Claims 12 and 14:

In regard to claim 12, Shelton in view of Eichstaedt does not teach or suggest a client computer system is operable to receive a request for information from said web site server, wherein said information comprises a first Internet address and a first time value corresponding to said client computer system. The Examiner rejects claim 12 for the same reasons as claim 1, discussed above. For a more detailed discussion regarding the limitations of Shelton in view of Eichstaedt regarding a client computer receiving a request for information including an Internet address and a time value corresponding to

the client computer, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 12 as well.

Additionally, Shelton in view of Eichstaedt fails to teach or suggest a client computer system operable to execute a program to synchronize time. **The Examiner has completely ignored this limitation of claim 12.** Neither Shelton in view of Eichstaedt mentions anything regarding a client computer system operable to execute a program to synchronize time.

Claim 15:

In regard to claim 15, Shelton in view of Eichstaedt does not teach or suggest sending a request for information to the first computer user, wherein the information comprises a first Internet address and a first time value corresponding to the first computer user, as recited in claim 15. The Examiner rejects claim 15 for the same reasons as claim 1, discussed above. For a more detailed discussion regarding the limitations of Shelton in view of Eichstaedt regarding claim 15, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 15 as well.

Claims 16, 18 and 19:

In regard to claim 16, Shelton in view of Eichstaedt does not teach or suggest storing one or more identifiers, wherein each identifier comprises an Internet address and a time value; receiving a request from a first computer user to access the web site, wherein said requests comprises a first identifier corresponding to said first computer user accessing said web site. The Examiner rejects claim 16 for the same reasons as claim 1, discussed above. **The Examiner has improperly ignored differences between claims 1 and 16.** For example, claim 16 recites receiving a request from a computer user to access the web site, where the request comprises a first identifier corresponding to the computer user. The Examiner has failed to cite any portion of the prior art or to provide any arguments regarding this limitation of claim 16. Nowhere does either Shelton or Eichstaedt, either separately or in combination, mention anything regarding receiving a

request to access the web site that includes an identifier corresponding to a computer user.

Additionally, Shelton in view of Eichstaedt does not teach or suggest searching for a matching identifier; and identifying the first identifier as a distinct computer user if said searching for said first identifier did not result in a match, as presented in claim 16. For a more detailed discussion regarding the failure of Shelton in view of Eichstaedt to teach or suggest identifying a computer user as distinct if a search for a matching identifier does not result in a match, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 16 as well.

Claim 20, 21, 24, 25, 26, 28 and 29:

Shelton in view of Eichstaedt does not teach or suggest receiving a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site, as presented in claim 20. The Examiner rejects claim 20 for the same reasons as claim 1, discussed above. **The Examiner has improperly ignored differences between claims 1 and 20.** For example, claim 20 recites receiving a request from a computer user that comprises an Internet address and a time value. The Examiner has failed to cite any portion of the prior art or to provide any arguments regarding this limitation of claim 20. Furthermore, neither Shelton nor Eichstaedt, either separately or in combination, mentions anything regarding receiving a request to access the web site that includes an Internet address and a time value.

Additionally, Shelton in view of Eichstaedt does not teach or suggest comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses. As discussed above regarding claim 1, Eichstaedt teaches comparing *a number of requests made within a time period* to a predefined maximum number and clearly fails to teach anything regarding comparing a time value and an Internet address with a database of time value

information and Internet address information compiled from previous web site accesses. For a more detailed discussion regarding the failure of Shelton in view of Eichstaedt to teach or suggest comparing a time value and an Internet address with a database of time value information and Internet address information, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 20 as well.

Claims 30, 33, 34, 36 and 37:

Shelton in view of Eichstaedt does not teach or suggest receiving a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site, as presented in claim 30. The Examiner rejects claim 30 for the same reasons as claim 1, discussed above. **The Examiner has improperly ignored differences between claims 1 and 30.** For example, claim 30 recites receiving a request from a computer user that comprises an Internet address and a time value. The Examiner has failed to cite any portion of the prior art or to provide any arguments regarding this limitation of claim 30. Furthermore, neither Shelton nor Eichstaedt, either separately or in combination, mentions anything regarding receiving a request to access the web site that includes an Internet address and a time value.

Additionally, Shelton in view of Eichstaedt does not teach or suggest comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses. As discussed above regarding claim 1, Eichstaedt teaches comparing *a number of requests made within a time period* to a predefined maximum number and clearly fails to teach anything regarding comparing a time value and an Internet address with a database of time value information and Internet address information compiled from previous web site accesses. For a more detailed discussion regarding the failure of Shelton in view of Eichstaedt to teach or suggest comparing a time value and an Internet address with a database of time value information and Internet address information, please refer to the relevant arguments presented above regarding claim 1, as they apply to claim 30 as well.

Second Ground of Rejection:

Claims 4, 7, 10, 13, 17, 23, 27, 32 and 35 stand finally rejected under 35 U.S.C.§ 103(a) as being unpatentable over Shelton et al. (U.S. Patent 6,418,471) (hereinafter "Shelton") in view of Eichstaedt et al. (U.S. Patent 6,662,230) (hereinafter "Eichstaedt") in further view of Bodnar et al. (U.S. Patent 6,295,541) (hereinafter Bodnar). Appellant traverses this rejection for at least the following reasons.

Claim 4:

Claim 4 is patentable for at least the reasons provided above regarding claim 1, from which claim 4 depends. Please refer to the arguments presented above regarding claim 1, which also apply to claim 4.

Claim 7:

Regarding claim 7, Shelton in view of Eichstaedt in further view of Bodnar does not teach or suggest identifying the first computer user as a distinct computer user only if the matching record does not exist in the database or if the timestamp for the matching record is older than a predetermined maximum time. The Examiner admits that Shelton and Eichstaedt fail to teach the limitations of claim 7. The Examiner cites Bodnar, column 27, line 40-column 28, line 31. However, the cited passage describes how Bodnar determines and deals with clock drift in his record synchronization system. Determining and handling clock drift and error in a record synchronization system does not teach or suggest anything regarding identifying a computer user as a distinct computer user only if a matching record does not exist in a database or if the timestamp for the matching record is older than a predetermined maximum time. The only maximum time mentioned by Bodnar, in the cited passage or elsewhere, is the maximum presumed range a clock may have drifted since a last synchronization (Bodnar, column 27, lines 40-43). Thus, Shelton in view of Eichstaedt in further view of Bodnar clearly fails to teach or suggest identifying the first computer user as a distinct computer user

only if the matching record does not exist in the database or if the timestamp for the matching record is older than a predetermined maximum time.

Claim 10:

Claim 10 is patentable for at least the reasons provided above regarding claim 9, from which claim 10 depends. Please refer to the arguments presented above regarding claim 9, which also apply to claim 10.

Claim 13:

Claim 13 is patentable for at least the reasons provided above regarding claim 12, from which claim 13 depends. Please refer to the arguments presented above regarding claim 12, which also apply to claim 13.

Claim 17:

Claim 17 is patentable for at least the reasons provided above regarding claim 16, from which claim 17 depends. Please refer to the arguments presented above regarding claim 16, which also apply to claim 17.

Claim 23:

Claim 23 is patentable for at least the reasons provided above regarding claim 20, from which claim 23 depends. Please refer to the arguments presented above regarding claim 20, which also apply to claim 23.

Claim 27:

Claim 27 is patentable for at least the reasons provided above regarding claim 26, from which claim 27 depends. Please refer to the arguments presented above regarding claim 26, which also apply to claim 27.

Claim 32:

Claim 32 is patentable for at least the reasons provided above regarding claim 30, from which claim 32 depends. Please refer to the arguments presented above regarding claim 30, which also apply to claim 32.

Claim 35:

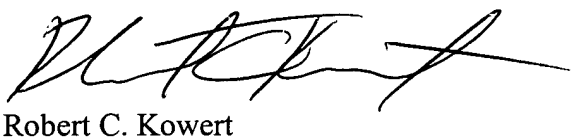
Claim 35 is patentable for at least the reasons provided above regarding claim 34, from which claim 35 depends. Please refer to the arguments presented above regarding claim 34, which also apply to claim 35.

VIII. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-37 was erroneous, and reversal of his decision is respectfully requested.

The Commissioner is authorized to charge the appeal brief fee of $500.00 and any other fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5596-00200/RCK. This Appeal Brief is submitted with a return receipt postcard.

Respectfully submitted,



Robert C. Kowert
Reg. No. 39,255
Attorney for Appellant

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
(512) 853-8850

Date: March 28, 2005

IX. CLAIMS APPENDIX

The claims on appeal are as follows.

1. A method for identifying distinct users accessing a web site, the method comprising:

storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a different computer accessing said web site;

receiving a first request from a first computer to access the web site;

sending a request for information to said first computer, wherein said information comprises a first Internet address and a first time value corresponding to said first computer;

receiving said information;

determining whether a matching record for said first Internet address and said first time value exists in said database; and

identifying said first computer as a distinct user if said matching record does not exist in said database.

2. The method of claim 1, wherein said time value is associated with a user-defined event.

3. The method of claim 2, wherein said user-defined event is a launch of a web browser software on said first computer system.

4. The method of claim 1, wherein said time value is generated by a time keeping device, wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock.

5. The method of claim 1, wherein said Internet address is an Internet Protocol (IP) address.

6. The method of claim 1, wherein the database is an object oriented database or a relational database.

7. The method of claim 1, further comprising generating and updating a timestamp for each record, wherein said identifying comprises identifying said first computer user as a distinct computer user only if said matching record does not exist in said database or if said timestamp for said matching record is older than a predetermined maximum time.

8. The system of claim 1, wherein said first computer is a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television.

9. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by a computer user;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to a request from said computer user; and

wherein the web site server is operable to:

store one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a computer user accessing said web site;

receive a first request from a first computer user to access the web site;

send a request for information to said first computer user, wherein said information comprises a first Internet address and a first time value corresponding to said first computer user;

receive said information;

determine whether a matching record for said first Internet address and said first time value exists in said database;

identify said first computer user as a distinct computer user if said matching record does not exist in said database.

10. The system of claim 9, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

11. The system of claim 9, wherein said client computer system is one of the following: a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television.

12. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by a computer user; and

a web site server, wherein the web site server is operable to connect with the client computer system for providing web site access to said client computer system in response to a request from said computer user,

wherein the client computer system is operable to:

launch a web browser software;

execute a program to synchronize time;

send a first request to said web site server to access the web site;

receive a request for information from said web site server, wherein said information comprises a first Internet address and a first time value corresponding to said client computer system; and

send said information.

13. The system of claim 12, wherein said web site server further comprises a time keeping device configured to maintain a time value by synchronizing said time value with a global time keeping standard clock.

14. The system of claim 12, wherein said client computer system comprises a personal computer or a laptop computer or a notebook computer or an Internet-enabled cellular phone or an Internet-enabled personal digital assistant or a web television system.

15. A carrier medium comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a distinct computer access to a web site;

receiving a first request from a first computer to access the web site;

sending a request for information to said first computer, wherein said information comprises a first Internet address and a first time value corresponding to said first computer;

receiving said information;

determining whether a matching record for said first Internet address and said first time value exists in said database;

identifying said first computer as a distinct computer user if said matching record does not exist in said database.

16. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by a computer user;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to a request from said computer user; and

wherein the web site server is operable to:

store one or more identifiers, wherein each identifier corresponds to a computer user accessing said web site, wherein said each identifier comprises an Internet address and a time value;

receive a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site;

search for an identifier matching said first identifier among said one or more stored identifiers;

identify said first unique identifier as a distinct computer user if said searching for said first unique identifier did not result in a match.

17. The system of claim 16, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

18. The system of claim 16, wherein said client computer system comprises a personal computer or a laptop computer or a notebook computer or an Internet-enabled cellular phone or an Internet-enabled personal digital assistant or a web television system.

19. A carrier medium comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

storing one or more identifiers, wherein each identifier corresponds to a computer user accessing a web site, wherein said each identifier comprises an Internet address and a time value;

receiving a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site;

searching for an identifier matching said first identifier among said one or more stored identifiers;

identifying said first unique identifier as a distinct computer user if said searching for said first unique identifier did not result in a match.

20. A method for identifying a distinct computer user accessing a web site, the method comprising:

receiving a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site;

determining whether the first computer user is a distinct user by:

comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses.

21. The method of claim 20, wherein said time value is associated with an event defined by said computer user.

22. The method of claim 21, wherein said event is a launch of a web browser software on a computer operable by said computer user.

23. The method of claim 20, wherein said time value is generated by a time keeping device, wherein said time value is synchronized with a global time keeping standard clock by said time keeping device.

24. The method of claim 20, wherein said Internet address is an Internet Protocol (IP) address.

25. The method of claim 20, wherein the database is an object oriented database or a relational database.

26. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by a computer user;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to a request from said computer user; and

wherein the web site server is operable to:

receive a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site;

determine whether the first computer user is a distinct user by:

compare said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses.

27. The system of claim 26, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

28. The system of claim 26, wherein said client computer system comprises a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or a web television system.

29. A carrier medium comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

receiving a request from a first computer user to access a web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site;

determining whether the first computer user is a distinct user by:

comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses.

30. A method for counting web hits at a web site, the method comprising:

receiving a request from a computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site;

determining whether the computer user is counted as a web hit by:

comparing said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses.

31. The method of claim 30, wherein said time value is associated with the launch of a web browser software on a computer operable by said computer user.

32. The method of claim 30, wherein said time value is generated by a time keeping device, wherein said time value is synchronized with a global time keeping standard clock by said time keeping device.

33. The method of claim 30, wherein said Internet address is an Internet Protocol (IP) address.

34. A system for counting unique hits on a web site, the system comprising:

a client computer system operated by a computer user;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to a request from said computer user; and

wherein the web site server is operable to:

receive a request from a computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site;

determine whether the computer user is counted as a unique hit by:

compare said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses.

35. The system of claim 34, further comprising:

a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

36. The system of claim 34, wherein said client computer system comprises a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or a web television system.

37. A carrier medium comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

receiving a request from a computer user to access a web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site;

determining whether the computer user is counted as a web hit by:

comparing said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses.

X. EVIDENCE APPENDIX

No evidence submitted under 37 CFR §§ 1.130, 1.131 or 1.132 or otherwise entered by the Examiner is relied upon in this appeal.

XI. RELATED PROCEEDINGS APPENDIX

There are no related proceedings.